

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LORENZO R. CUNNINGHAM,

No. C-13-1978 EMC (pr)

Plaintiff,

v.

**ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT**

UCSF SPINE CENTER; *et al.*,

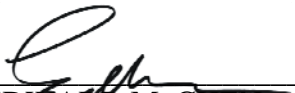
Defendants.

Plaintiff's motion for relief from judgment is DENIED. (Docket # 32.) Federal Rule of Civil Procedure 60(b) provides for relief from a judgment where one or more of the following is shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered before the court's decision; (3) fraud, misrepresentation or misconduct by the adverse party; (4) the judgment is void; (5) the judgment has been satisfied, is based on a vacated judgment, or its prospective application is no longer equitable; (6) any other reason justifying relief. Fed. R. Civ. P. 60(b). The "catchall provision" of Rule 60(b)(6) applies only when the reason for granting relief is not covered by any of the other reasons set forth in Rule 60. *See Jones v. Ryan*, 733 F.3d 825, 839 (9th Cir. 2013). The movant "must show 'extraordinary circumstances' justifying the reopening of a final judgment." *Id.* The order of dismissal and judgment in this action on November 20, 2013 were proper, and Plaintiff has shown no reason for relief from judgment under any of the subdivisions of Rule 60(b). Plaintiff deliberately chose to request a voluntary dismissal eleven months ago rather than to file an amended complaint. His change of heart does not provide a reason to set aside the properly entered judgment

1 of dismissal. Plaintiff is reminded that this action was dismissed without prejudice, which means he
2 can file a new action. However, he may not file any more motions in this closed case.

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4 IT IS SO ORDERED.

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6 Dated: October 14, 2014

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EDWARD M. CHEN
United States District Judge